

# Consent Policy Design Group

## Meeting Minutes

MEETING DATE	MEETING TIME	Location
October 29, 2019	1:00PM – 2:30PM	<b>Join Zoom Meeting:</b> <a href="https://zoom.us/j/269726549">https://zoom.us/j/269726549</a> <b>Dial:</b> +1 646 876 9923 US <b>Meeting ID:</b> 269 726 549

### DESIGN GROUP MEMBERS

Stacy Beck, RN, BSN		Susan Israel, MD	X	Nic Scibelli, MSW	
Pat Checko, DrPH	X	Rob Rioux, MA		Rachel Rudnick, JD	X
Carrie Grey, MSIA					

### SUPPORTING LEADERSHIP

Allan Hackney, OHS		Carol Robinson, CedarBridge	X	Sheetal Shah, CedarBridge	X
Tina Kumar, OHS		Michael Matthews, CedarBridge	X	Tim Pletcher, Velatura	
Sean Fogarty, OHS	X	Chris Robinson, CedarBridge		Lisa Moon, Velatura	

### Minutes

	Topic	Responsible Party	Time
<b>1.</b>	<b>Welcome and Overview</b>	<b>Michael Matthews</b>	<b>1:00 PM</b>
	Michael Matthews welcomed the group and provided an overview of the agenda.		
<b>2.</b>	<b>Public Comment</b>	<b>Attendees</b>	<b>1:02 PM</b>
	There was no public comment.		
<b>3.</b>	<b>Review and Approval of Meeting Minutes</b>	<b>Attendees</b>	<b>1:05 PM</b>
	Pat requested a correction to the minutes. She said that STD and HIV data are no longer specifically protected in CT. Michael indicated that this will get updated. Susan Israel created a motion to approve the meeting minutes from October 15, 2019 with the change noted. Pat Checko seconded the motion and it was approved without objections or abstentions.		
<b>4.</b>	<b>Discussion of Remaining Guiding Principles</b>	<b>Attendees</b>	<b>1:10 PM</b>
	Michael indicated that there were four remaining guiding principles and one new guiding principle to review.		
	<b><u>Principle #7</u></b>		
	Michael reviewed this principle and asked Rachel to provide feedback based on her comment. Rachel said she was comfortable with the principle with a slight modification. Rachel also asked if this principle should be consolidated with principle #3. The group reviewed guiding principle #3. Rachel indicated that these were different and should be separate. Rachel and Pat accepted this principle.		
	<b><u>Principle #8</u></b>		
	Michael provided an overview of the principle. He suggested to include the term “paper based.” Pat accepted this change. Michael asked Rachel if her comments were addressed. Rachel asked to confirm her understanding of the principle which was that the tools to collect consent are user-friendly. Michael confirmed and Rachel accepted the language. Susan asked if Rachel would like her comments related to mechanisms for opt-in or opt-out methodology be included in the other considerations section; and Rachel agreed. Michael proposed the following language to the group: “Regardless of whether opt-in or opt-out methodology is in place, mechanisms for consent policy preferences should be clear as to the impact of their consent decision.” Rachel and Pat accepted the updated language.		

### **Principle #13**

Michael provided an overview of the principle. Pat asked if TECCA would become law. If so, she thinks it may be repetitive. Michael said it will be a voluntary agreement and that this was an excellent distinction. Pat thinks it should remain as a separate principle. Pat, Susan and Rachel accepted the principle.

### **Principle #17**

Michael provided an overview of the principle. He asked Rachel to clarify her comment or suggest how wording could be improved. Rachel said that the term “sufficient” may have a different connotation and suggested the phrase “as much time as they need.” Pat suggested the phrase “ample opportunity.” Rachel and Pat accepted the updated language. Susan asked if Rachel wanted to include any portion of her comments in the recommendation. Rachel did not deem this as necessary. Michael clarified that any individual can put a comment under any consideration. Susan asked if they should address education in this principle. Pat said that she thinks her concerns are addressed in other guiding principles. Susan accepted what the group decided and no other considerations were captured.

### **Principle #19**

Michael provided an overview of the principle. Then, he reviewed Susan’s consideration: *Consent policy development must be decided in the public domain, for example, under the AG and the Regulations Review Committee. Thus, public hearings for consent policies must be held at the Legislative Office Building with notice in the Legislative Bulletin, along with a well-publicized, written input process for each consent policy and the public posting of all comments. Additionally, bi-annual hearings would be held to review the consent policies and their efficacies.* Lastly, he reviewed Susan’s explanation for adding this consideration: *Allan Hackney has said to us that “Identity and Care Mapping” are not part of the “Use Case System.” Therefore, until proven otherwise, OHS/HIE intend that they are not subject to patient consent policies beyond accepting treatment. Once that occurs, medical data could be sent without patient consent. And at the Oct. 17 meeting of the HIT Advisory Council meeting, did Allan imply that further consent policies won’t be needed for most patient data to go into the HIE because HIPAA allows that for TPO, just by patients accepting treatment? Or is he saying that ALL data will be subject to specific consent policies and therefore including an opt-out of the HIE?... “Allan Hackney said the approach that we settled on for HIE launch is to focus on primarily on standard based HIPAA TPO based activity. The vast majority HIPAA BA’s deal with those transactions all the time; our goal connect as many standard EHR’s as possible before the HITECH IAPD funding ends of September 2021. We expect to do that by limiting the data to very standard clinical data, so avoiding the nuance of incorporating data around SUD, behavioral health and other sensitive data that require extra rules and consent. For example, with Wheeler Clinic, we talked about policy...”* Michael asked Susan if she would like to add anything else. Susan said that she appreciated having the opportunity to post the consideration and explanation. She added that she would like public comments to be accepted during or at the end of a meeting, so the public would be able to respond in a more timely manner to what was being discussed. Michael thanked Susan for her comment and indicated that this feedback will be passed on to Co-Chairs of the Health IT Advisory Council. Pat is supportive of the language. Pat said that she knows people feel strongly about who is reviewing the policies and this principle standardizes and coalesces many of the topics they have discussed. Rachel is supportive of the language as well. Rachel added that while she agreed with Susan’s consideration and the intent, she is concerned that it would not be followed the way it was currently written. She suggested to bolster the language in #19 or update the language in other considerations. Pat did not agree with the approach to put it into the legislative process. In her experience, the legislative review committee and/or the Attorney General’s review can take a long time. Rachel agreed with Pat and clarified her concern was the terminology being used. Susan said that the law is not clear as to whether patients could opt-out or say which providers were going to be in the HIE. From her perspective, she would like to include more people in the discussion. Michael said that the Health IT Advisory Council is advisory. They do not enact legislation and that these recommendations would be sent to OHS for further assessment. Rachel agreed and

indicated that someone with a better understanding of the processes may be able to help inform what is feasible. Susan said she liked Rachel's point and is open minded to amending the language. Susan said she is concerned, with the way #19 was currently written, that OHS would be able to make consent policies without including the legislators and regardless of public input. Pat disagreed with this perspective. Rachel said that she believed 19.h. could have more robust language to ensure the comments are reviewed seriously. Michael suggested proposed language. The group deliberated on the wording. Rachel and Pat agreed with the intent of the updated language. Pat suggested it may need slight modifications. Michael asked Susan if she wanted the opportunity to reflect on this conversation and then provide updated language in the other considerations section. Susan agreed. Pat asked if this principle was discussed with Nic. Michael confirmed that he had spoken with Nic and that he was supportive of the general process outlined.

<b>5. Wrap Up and Meeting Adjournment</b>	<b>Michael Matthews</b>	<b>2:10 PM</b>
---	-------------------------	----------------

Michael requested one more meeting with the group to discuss the remaining outstanding items, including Susan's suggestion to Guiding Principle #1. He also indicated that Nic is concerned with having the other considerations immediately follow the guiding principle. Nic believed this would detract from the value of the overall set of principles and would like to the principles to stand on their own. Michael suggested a compromise which would be to insert a hyperlink after the guiding principle to the appropriate section. Rachel asked that this be discussed at our next meeting.

Michael suggested an additional meeting two weeks from today. Susan and Pat indicated they would be available at 10am; 10am on 11/4 would be an alternative date if needed. Michael said that the CedarBridge Group will circulate meeting minutes and consolidated documentation with the outstanding items listed.

DRAFT